

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JIMI ROSE,</b>	)	CIVIL RIGHTS ACTION
<b>Plaintiff</b>	)	
<b>vs.</b>	)	<b>No. 02-CV-3842</b>
	)	
<b>CITY OF ALLENTOWN, and</b>	)	<b>JURY TRIAL DEMANDED</b>
<b>ZONING HEARING BOARD OF</b>	)	
<b>THE CITY OF ALLENTOWN,</b>	)	
<b>Defendants</b>	)	

**AFFIDAVIT OF FRANCIS P. BURIANEK, ESQUIRE**  
**RE: 1993 ZONING APPEAL**

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I, Francis P. Burianek, Esquire, swear that the following facts are true and correct:

1. I am an Assistant City Solicitor with the City of Allentown.
2. I have been an Assistant City Solicitor since 1979.
3. I have been personally involved with the various zoning appeals filed by Mr. Jimi Rose.
4. The attached are true and correct copies of the decisions, appeals, briefs, and opinions filed and/or rendered in the 1993 zoning matter:

**Exhibits**

- 1A. Order and Opinion of Allentown Zoning Hearing Board (September 16, 1993).
- 1B. Certiorari and Notice of Appeal (October 15, 1993).
- 1C. Praecipe to Withdraw Appeal (undated).
- 1D. Motion to Enforce Agreement and to Reinstate Appeal Nunc Pro Tunc (May 20, 2004), raising the following issues in Paragraph 12:
  - a. Equal Protection.

- b. Equal Protection.
- c. Equal Protection.
- d. First Amendment - Freedom of Expression.
- e. Over breadth - Freedom of Expression.

1E. Order Denying Appeal (October 14, 2004).

1F. Notice of Appeal to the Pennsylvania Superior Court (November 12, 2004).

1G. Statement of Matters Complained of on Appeal (December 1, 2004).

1H. Order of Superior Court of Pennsylvania (December 3, 2004).

1I. Supplement to Appellant's Statement (December 15, 2004).

1J. Order of Superior Court (December 15, 2004).

1K. Statement of Reasons (per the Honorable Carol K. McGinley) (January 6, 2005),

noting that the Rose appeal asserted First Amendment constitutional claims and racial bias claims.

1L. Appellees Answer and New Matter (January 28, 2005) and Brief.

1M. Order (February 2, 2005).

1N. Order (February 4, 2005).

I swear that the foregoing facts are true.

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Francis P. Burianek, Esquire

SWORN TO and Subscribed  
before me, this            day  
of                            , 2005.

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Notary Public